

OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION UNIT
1998 ANNUAL REPORT
ALAN G. LANCE, ATTORNEY GENERAL
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MISSION STATEMENT

The Attorney General's Consumer Protection Unit enforces Idaho's Consumer Protection, Telephone Solicitation, Pay-Per-Telephone Call, Charitable Solicitation, and Antitrust Acts. These Acts protect consumers, businesses and the marketplace from unfair or deceptive acts and practices. The Consumer Protection Unit seeks to fulfill this charge efficiently and economically through education, mediation, and enforcement.

The Attorney General reports to the public annually on the Consumer Protection Unit's activities.

HISTORY

The Consumer Protection Unit was established in 1987. The Legislature has assigned to the Attorney General enforcement duties in consumer protection, telephone and charitable solicitations, 900-number telephone calls, and antitrust. The Consumer Protection Unit consists of a staff of eleven people. Fees and penalties collected from enforcement actions have paid for all positions added since 1990.

APPLICABLE LAWS

The Consumer Protection Unit enforces, and operates pursuant to, the following statutes and rules:

- the Idaho Consumer Protection Act and the Idaho Consumer Protection Rules,
- the Idaho Telephone Solicitation Act,
- the Idaho Pay-Per-Telephone Call Act and the Idaho Telephone Solicitation and Pay-Per-Telephone Call Services Rules,
- the Idaho Charitable Solicitations Act, and
- the Idaho Antitrust Act.¹

¹ These Idaho statutes and rules are codified, respectively as follows: Consumer Protection Act, Title 48, Chapter 6, Idaho Code; the Consumer Protection Rules, IDAPA 04.02.01000 et seq.; the Telephone Solicitation Act, Title 48, Chapter 10, Idaho Code; the Pay-Per-Telephone Call Act, Title 48, Chapter 11, Idaho Code; the Telephone Solicitation and Pay-Per-Telephone Call Services Rules, IDAPA 04.02.02000 et seq.; the Charitable Solicitations Act, Title 48, Chapter 12, Idaho Code; and the Antitrust Act, at Title 48, Chapter 1, Idaho Code.

The Consumer Protection Unit also enforces provisions of other statutes, including those dealing with chain and pyramid distribution schemes. In addition, the Consumer Protection Unit provides information regarding Idaho's Lemon Law Act, Idaho's Landlord/Tenant Act and Idaho's Mobile Home Park Act.

STAFFING

The Consumer Protection Unit is staffed by three deputy attorneys general, two investigators/paralegals, three consumer specialists, two receptionists, and one legal secretary.

1998 ACTIVITIES

This year the Consumer Protection Unit obtained significant consumer restitution as a result of its enforcement actions. Consumer Protection Unit staff educated thousands of people about consumer issues.

In 1998, the Consumer Protection Unit recovered \$638,360 for Idaho consumers and 413,121 in civil penalties, fees, and costs. The civil penalties, fees and costs recovered by the Unit are used to reimburse the State and are used by the Attorney General to carry out his duties under Idaho's consumer protection laws.

In addition to its normal load of consumer protection cases, Attorney General Lance also assigned the lead role in Idaho's tobacco lawsuit to the Consumer Protection Unit. The settlement will result in payments totaling \$712 million to the state of Idaho over the first 25 years.

In 1998, the Consumer Protection Unit assisted more Idahoans than ever before. Complaints and inquiries climbed to 5,678, a four percent increase over 1997, the previous record year. During 1998, consumers reported more than \$882,400 in consumer losses. A statistical fact sheet concerning the Consumer Protection Unit is attached to the end of this report. It includes the Attorney General's Top Ten List of Consumer Complaints and Inquiries.

ENFORCEMENT

TOBACCO. On November 23, 1998, Attorney General Lance entered into a settlement agreement with Philip Morris Incorporated, Brown & Williamson Tobacco Corporation, R.J. Reynolds Tobacco Company, and Lorillard Tobacco Company. The settlement agreement was approved by the Honorable Daniel T. Eismann on December 3, 1998. The agreement is historic for two reasons. First, it will significantly alter how the industry markets tobacco products. The agreement contains a number of unprecedented provisions intended to reduce youth smoking. Second, the settlement agreement will require the industry to make significant payments to the State of Idaho in perpetuity. During the first twenty-five years alone, payments to Idaho will total approximately \$712 million. In financial terms, the agreement is by far the largest civil settlement in Idaho's history.

SLAMMING. The Consumer Protection Unit settled two "slamming" cases with Least Cost Routing, Inc., and Minimum Rate Pricing, Inc. Both are long-distance telephone service resellers. "Slamming" refers to illegally switching a consumer's long distance telephone service to another company without the customer's knowledge or consent. In both of these cases, telephone soliciting was the most common method for slamming.

The settlements resolve the Attorney General's allegations that these companies misrepresented themselves and switched Idaho consumers' long-distance services without the consumers' approval. The companies agreed to provide restitution to eligible consumers and reimburse the Consumer Protection Unit its fees and costs. The companies also agreed that there would be no future misrepresentations related to the sale of long distance services. Finally, they agreed they would verify a consumer's consent before switching long distance service in the future.

CRAMMING. "Cramming," a more recent and fast growing form of telephone fraud, involves adding charges for unauthorized services to a consumer's telephone bill. The Consumer Protection Unit settled its first "cramming" cases with Veterans of America Association and Capital Gains of Naples, Inc., doing business in Idaho as the Psychic Power Center.

Both settlements resolved allegations by the Attorney General that consumers had been billed for telecommunications services they did not want. In addition to providing refunds for consumers, the two businesses reimbursed the Consumer Protection Unit its fees and costs.

SWEEPSTAKES. The Consumer Protection Unit obtained an assurance of voluntary compliance from American Family Publishers, one of the nation's largest sweepstakes operators. The company uses television celebrities Dick Clark and Ed McMahon as its advertising spokespersons. In the promotion in question, American Family Publishers mailed solicitations to Idaho residents, stating "[Name of consumer] IT'S DOWN TO A 2 PERSON RACE FOR \$11,000,000 – YOU AND ONE OTHER PERSON IN IDAHO WERE ISSUED THE WINNING NUMBER [Winning number supplied] – WHOEVER RETURNS IT FIRST WINS IT ALL!" The solicitation was misleading; it was not a two-person race. Under the assurance, American Family Publishers agreed to stop deceptive and misleading promotions and to be truthful with consumers in the future. The company also paid the Consumer Protection Unit \$50,000 to resolve the dispute.

INERT GAS-FILLED WINDOWS. The Consumer Protection Unit led a three-state settlement with Hurd Millwork Co., the nation's largest manufacturer of inert gas-filled windows. Hurd sells several models of windows filled with inert gas. The company advertised that the gas provides certain insulating qualities.

Since the early 1990's, Hurd installed tubes in the gas-filled windows shipped to Idaho and other Western states to allow for pressure equalization and prevent breakage at high elevations.

An investigation by the Consumer Protection Unit, utilizing extensive laboratory tests, found that the windows with these shipping tubes lose most if not all of their gas. As a result, the windows' qualities, as represented by the manufacturer, were inaccurate.

In the settlement, Hurd agreed to provide rebates valued at \$77,000 to consumers. In addition, Hurd contributed \$25,000 to Habitat for Humanity in Coeur d'Alene, Twin Falls, and Boise and reimbursed the Consumer Protection Unit for its fees and expenses in the case. It also agreed to reform the way it advertises its windows.

VACATION PROMOTIONS. The Consumer Protection Unit obtained settlement agreements with three Florida vacation promoters: National Travel Services, Florida Travel Network, and Cruise Marketing Group. Each of these companies notified Idaho consumers by fax or mail that they had won a free vacation in Florida and the Bahamas. The consumers had not. The vacations cost several hundred dollars each. The companies agreed to make refunds to consumers

and disclose to consumers in future promotions that they are being asked to buy a vacation. The companies also paid the Consumer Protection Unit, collectively, \$27,500 for fees and costs.

In an unrelated but similar case, the Consumer Protection Unit filed a contempt action against a fourth vacation promoter, Travel Opportunities of Fort Lauderdale, Inc., for violations of its Consent Judgment. The action resulted in a \$10,000 civil penalty payment.

BADGE DEALS. The Consumer Protection Unit obtained agreements from two “badge deal” fund-raising operations, A & J Publishing, Inc., and its president Alan J. Choder; and Leon Saja d/b/a Southwest Publishing. The settlements bar the companies from telephone soliciting in Idaho for at least 5 years. In addition, the two companies agreed to provide refunds to consumers and to pay \$7,500 in civil penalties and as reimbursement for the Attorney General’s legal and investigative costs.

The term “badge deal” refers to a promotion in which a fundraising company seeks out contracts with organizations that are, or purport to be, law enforcement or public safety-oriented. Telemarketers like ‘badge deals’ because people tend to donate generously when they think they’re helping their local police and fire departments. “Badge deals” frequently target senior citizens and badge deal operators frequently buy and sell lists of previous victims. The phone solicitors often keep a very large percentage, up to 85%, of the donations they solicit.

ANTITRUST. The Consumer Protection Unit filed suit against Toys R Us, and a number of toy manufacturers for allegedly conspiring since 1990 to withhold popular toys from low margin warehouse clubs that undercut Toys R Us prices. As a result, consumers paid higher prices for certain toys and could not compare toy prices. Hasbro, Inc., one of the toy manufacturer defendants in the case, agreed to settle the charges against it. Under the settlement, Idaho received \$15,000 worth of toys to distribute to needy children. Hasbro will also pay the State \$10,000 in cash with the provision that the money benefit children in the State of Idaho. The lawsuit against the other defendants, Toys R Us, Mattel, and Little Tikes, continues.

COLLECTION PRACTICES. The Consumer Protection Unit obtained consent judgments with Federated Department Stores, Inc., and General Electric Credit Corporation. The Idaho settlements were part of two national settlements with these businesses. The settlements resolve issues that the two companies engaged in illegal debt collection practices by misrepresenting to consumers who had filed for bankruptcy that their debts were still due and owing. As a result of the settlements, the two companies agreed to pay more than \$183,000 in restitution to 200 Idaho consumers. In addition to providing restitution, the companies also agreed to change their collection policies and reimburse the Consumer Protection Unit for its fees and costs.

EDUCATION

The Attorney General believes that consumer education is essential. “My Consumer Protection Unit will win its battles in the courtroom, but Idaho will win the war on consumer fraud with informed citizens protecting themselves from loss and harm,” Attorney General Lance has stated. Accordingly, the Consumer Protection Unit conducts an aggressive consumer education program.

Consumer Protection Unit personnel made 71 presentations to 3002 people throughout the state. In addition, Consumer Protection Unit staff talked with thousands of Idaho residents during the Western Idaho, Canyon County, and Twin Falls County Fairs.

The Consumer Protection Unit prepared and distributed thousands of folders with consumer information targeted toward a variety of groups, including senior citizens and high school seniors.

In cooperation with the Idaho State Broadcasters Association, the Consumer Protection Unit placed public service announcements on radio and television from January through March 1998

All of the Consumer Protection Unit's written materials are available through the Attorney General's internet homepage. Tipsheets cover a variety of topics, including telephone solicitors, automobile repairs, mail fraud, Idaho's Lemon Law, construction fraud, and charitable donations. Consumers can also read Idaho's consumer protection laws and learn how to file a consumer complaint.

The Attorney General's internet address is: <http://www.state.id.us/ag/homepage.htm>.

Citizens can also obtain information on consumer issues by calling 334-2424 (Boise) or toll-free (in-state) 800-432-3545.

The Consumer Protection Unit provides all educational efforts at no cost to taxpayers. Money from civil penalties, fees and reimbursed costs is deposited into the consumer protection account. Funds from this account pay for all educational activities.

LEGISLATION

In the 1998 legislative session, Attorney General Lance proposed new measures designed by the Consumer Protection Unit to combat the deceptive practices known as "slamming" and "cramming." As noted above, "slamming" is the unauthorized switching of a person's long distance telephone service. "Cramming" refers to providing to and billing consumers for unwanted telecommunications services. The new legislation targets these practices and provides remedies for violations. Both measures were enacted by the Legislature and signed into law by the Governor.



CONSUMER PROTECTION -- BY THE NUMBERS

The following chart illustrates some of the Consumer Protection Unit's activities and accomplishments:

ACTIVITY	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Complaints*	1,243	1,614	2,525	3,367	3,130	3,228	3,627	4,497	5,451	5,678
Dollars Claimed Lost	\$735,731	\$680,172	\$489,467	\$831,437	\$1,042,885	\$1,268,283	\$960,191	\$528,945	\$920,285	\$882,486
Consumer Restitution Recovered	\$22,201	\$130,469	\$263,435	\$394,376	\$986,571	\$1,757,469	\$532,657	\$1,363,375	\$1,918,676	\$638,360
Civil Penalties and Costs Recovered	\$0	\$500	\$56,500	\$127,845	\$243,571	\$163,621	\$134,000	\$164,300	\$537,768	\$413,121
Enforcement Actions**	6	9	62	66	100	78	96	63	50	56
Telemarketers Registered	N/A	N/A	N/A	18	41	66	57	61	46	51

* Includes all written complaints lodged, inquiries made, information provided and, consumers' requests for written information.

** Includes Assurances of Voluntary Compliance, Judgments, and Orders Compelling Response and Granting Injunctive Relief obtained.

Overall, consumer complaints and inquiries were up four percent over 1997. The top ten complaint categories in 1998 are:

Telecommunications: 512

Telephone solicitations: 250

Mail Order Sales: 214

Motor Vehicles: 145

Contests: 104

Construction: 81

Credit Cards: 79

Travel: 68

Retail Store Sales: 65

Public Accommodations/Restaurants: 56

NOTES: In 1998, the Consumer Protection Unit recovered more than two dollars in restitution for each taxpayer dollar appropriated. For the past eight years the Consumer Protection Unit has recovered more money for Idaho residents than the Legislature has appropriated from its general fund for Consumer Protection Unit operations. Consumer Protection Unit salaries and benefits are expected to cost taxpayers approximately \$238,778 for the 1999 fiscal year. Another \$309,100 is budgeted from the consumer protection account for consumer education, the salaries of five staff members, and litigation and investigative expenses. The consumer protection account is comprised of moneys obtained through Consumer Protection Unit enforcement actions.